

**FILED**  
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U.S. DISTRICT COURT E.D.N.Y.

★ JUN 09 2010 ★

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

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JERRY LEITER AND AMY LEITER

**10 2654**

Civil Action No.:

Plaintiffs,

-against-

COMPLAINT

MRS ASSOCIATES

DEMAND FOR JURY TRIAL

Defendant(s).

**HURLEY, J.**

-----X

**BOYLE, M.J.**

Plaintiffs JERRY LEITER AND AMY LEITER ("Plaintiffs"), by and through her attorneys, M. Harvey Rephen & Associates, P.C., as and for its Complaint against the Defendant MRS ASSOCIATES INC. ("MRS") hereinafter referred to as Defendant(s)", respectfully sets forth, complains and alleges, upon information and belief, the following:

### **INTRODUCTION/PRELIMINARY STATEMENT**

1. Plaintiff brings this action on his own behalf for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of §1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA"), and New York General Business Law §349 prohibiting unfair and deceptive practices.

### **PARTIES**

2. Plaintiff is a resident of the State of New York, residing at 80 Woodcut Lane, Roslyn Heights, N.Y. 11577.

3. Defendant MRS is a corporation organized in New Jersey, with their main office at 1930 Olney Ave., Cherry Hill, N.J. 08003.

4. MRS is a "debt collector" as the phrase is defined and used in the FDCPA under 15 USC §1692a(6).

### **JURISDICTION AND VENUE**

5. The Court has jurisdiction over this matter pursuant to 28 USC §1331, as well as 15 USC §1692 et seq. and 28 U.S.C. §2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. §1367(a).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

### **FACTUAL ALLEGATIONS**

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "6" herein with the same force and effect as if the same were set forth at length herein.

8. On information and belief, Defendant, on behalf of a third-party, began collecting an alleged consumer debt from the Plaintiff AMY LEITER.

9. On information and belief, and better known to the Defendant, the Defendant

through a Debt Collector named Sharon Taylor began its collection efforts and campaign of communicating with the Plaintiff JERRY LEITER by calling from telephone numbers 516.209.3558 and 201.297.4577 to the Plaintiff's cell phone numerous times in the month of March and April 2010 and engaging Plaintiff Jerry Leiter in conversation.

10. The Defendant MRS repeatedly called Plaintiff Jerry Leiter on his cell phone, resulting in cell phone charges to him despite his having repeatedly informed the Defendant Debt Collector Sharon Taylor and her supervisor Bill Ferguson that the phone was not Plaintiff Amy Leiters, that it belong to Plaintiff Jerry Leiter, and that they should stop calling.

11. The Defendant repeatedly and consistently called the Plaintiff Jerry Leiter and engaged the Plaintiff in conversation without having given the required complete disclosures as required under 15 USC §1692e (11), but was told at least once by Defendant's debt collector Sharon Taylor that the Plaintiff Jerry Leiter should tell the Plaintiff Amy Leiter that there is a debt due.

12. The Defendant by calling numerous times to the Plaintiff's cell phone violated 15 USC §1692d – preface by engaging in conduct the natural consequence of which was to harass and abuse the Plaintiffs.

13. The Defendant by failing to include the required warnings violated 15 USC §1692e preface, (10) and (11).

14. The Defendant by calling to the Plaintiff's cell phone numerous times violated and concealing the true purpose of the communication violated 15 USC §1692e (f) (5).

15. The Defendant by failing to identify themselves by name violated 15 USC §1692d (6).

16. The defendant by informing Plaintiff Jerry Leiter of Plaintiff Amy Leiter's alleged debt violated 15 USC §1692c (b).

**FIRST CAUSE OF ACTION**

(Violations of the FDCPA)

17. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "15" herein with the same force and effect as if the same were set forth at length herein.

18. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 USC 15 USC §1692f – preface and (5), §1692d-preface, 15 USC §1692d(5), and 15 USC §1692d(6).

19. As a result of Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

**DEMAND FOR TRIAL BY JURY**

20. Plaintiffs JERRY LEITER and AMY LEITER hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs JERRY LEITER AND AMY LEITER demand judgment from the Defendants MRS ASSOCIATES, INC. as follows:

- A. For actual damages provided and pursuant to 15 USC §1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 USC §1692k(2)(A);
- C. For statutory damages provided and pursuant to 15 USC §1692k(2)(B);
- D. For attorneys' fees and costs provided and pursuant to 15 USC §1692k(a)(3);
- E. A declaration that the Defendant's practices violated the FDCPA;
- F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York

April 12<sup>th</sup>, 2010

Respectfully submitted,

By: 

M. Harvey Rephen, (MR3384), Esq.

M. HARVEY REPHEN & ASSOCIATES, P.C.

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Attorney for the Plaintiffs Jerry and Amy Leiter

To: MRS Associates Inc.  
1930 Olney Ave.  
Cherry Hill, NJ 08003

(Via Prescribed Service)

Clerk,

United States District Court, Eastern of New York

(For Filing Purposes)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

CASE NO.:

JERRY LEITER AND AMY LEITER

Plaintiff(s),

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COMPLAINT

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